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August 24, 2007

By Mail and ECF

The Honorable Kenneth M. Karas
United States District Judge
United States District Court for the
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Elektra v. Barker
SDNY No. 05 Civ. 7340 (KMK)

Dear Judge Karas:

We are writing in response to the August 22, 2007, post-argument submission (mailed but not filed) by plaintiffs of an Arizona decision in which they were involved, Atlantic v. Howell, 06-2076 (D. Arizona) (PHX/NVW). We write just to point out that (a) Mr. Howell was a *pro se* litigant, (b) the decision misstates the holdings in the district court holdings of Greubel, Payne, and Duty, since none of those decisions held that merely 'making available' does in fact constitute an infringement of plaintiffs' distribution right under 17 USC 106(3), and (c) the decision contains no explanation of how merely 'making available' could possibly fulfill the elements specified in 17 USC 106(3).

Respectfully submitted,

/s/

Ray Beckerman (RB8783)

cc: Richard J. Guida, Esq.
Mail and ECF